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that was originally submitted on May 19, 2005, and for which Applicant had not received back from the U.S. Patent and Trademark Office (PTO) a copy of the Form PTO-1449 with the art initialed by the Examiner. The Examiner has responded that the IDS referred to lacks a statement as specified under 37 C.F.R. § 1.97(e). However, no such statement is required, as Applicant had already complied with § 1.97(c)(2). The IDS accompanying Applicant's Rule 312 Response of November 16, 2006 had previously been submitted, with a check in the amount of \$180.00 in compliance with § 1.17(p). As such IDS was properly submitted prior to issuance of the Notice of Allowance, the Examiner must consider the IDS, the references cited therein, and initial the Form PTO-1449. Such action is requested, and Applicant should not have to go to the trouble and expense of filing an RCE to correct this PTO oversight.

Respectfully submitted,

Dated: 12-14-06

By: 
Mark S. Matkin
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